

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY Law Offices of Andy Winchell 90 Washington Valley Road Bedminster, New Jersey 07921 Telephone No. (973) 457-4710 andy@winchlaw.com By: Andy Winchell [AW-6590] Attorney for the Debtor	
In Re: Linda M. Rodriguez Debtor	Case No.: 19-19288 (MBK) Chapter: 13
Linda M. Rodriguez Plaintiff vs. PHH Mortgage Corporation Defendant	Adv. Pro. No: 23-01212 (MBK)

**PLAINTIFF'S SEPARATE STATEMENT OF FACTS IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

<u>Fact:</u>	<u>Source:</u>
Plaintiff and Defendant resolved Adversary Proceeding 21-01506 (the “First Adversary Proceeding”) through a settlement agreement (the “Settlement Agreement”).	<u>See</u> Exhibit 7.
In the Settlement Agreement, the Defendant agreed to remove from the Plaintiff’s mortgage loan (the “Mortgage Loan”) all fees other than real estate taxes and insurance, even the fees approved by the Court, that the Defendant had added to the Mortgage Loan (collectively the “Non-Recoverable Costs”).	<u>See</u> Exhibit 7, paragraph 1.
The Defendant agreed to pay the Debtor’s counsel \$15,000 in attorney’s fees (the “Attorney’s Fees”) and the mediator \$5,000 in mediator fees (the “Mediation Fees”).	<u>See</u> Exhibit 7, paragraph 5.
The Defendant agreed never to add any portion of the Non-Recoverable Costs, Attorney’s Fees, or Mediation Fees back into the Mortgage Loan.	<u>See</u> Exhibit 7, paragraph 1
The Defendant agreed not to add <u>any</u> amounts to the Mortgage Loan other than taxes and insurance for the remainder of the Bankruptcy Case without <u>first</u> complying with notice requirements contained in Rule 3002.1 of the Federal Rules of Bankruptcy Procedure.	<u>See</u> Exhibit 7, paragraph 1.
The Defendant agreed in the Settlement Agreement that if any Non-Recoverable Costs were added into the Mortgage Loan without the Defendant first complying with Rule 3002.1 of the Federal Rules of Bankruptcy Procedure and remained on the Defendant records for more than thirty days without being removed, the	<u>See</u> Exhibit 7, paragraph 1.

Defendant would be in breach of the Settlement Agreement.	
The Defendant failed to remove \$1,050 in fees from the Mortgage Loan.	<u>See</u> Certification of Bernard Jay Patterson
The Defendant added \$15,000 in Attorney's Fees and \$5,000 in Mediation Fees into the Mortgage Loan.	<u>See</u> Certification of Bernard Jay Patterson
The Defendant did not file a notice pursuant to FRBP 3002.1 before adding the Attorney's Fees and Mediation Fees into the Mortgage Loan.	<u>See</u> Bankruptcy Court Docket
The Defendant failed to remove the Attorney's Fees and Mediation Fees from the Mortgage Loan within thirty days of adding them.	<u>See</u> Certification of Bernard Jay Patterson

Dated this the 25th day of September, 2024.

/s/ Andy Winchell
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